

REMARKS

Claims 1-2 and 5-7 are pending in this application. For purposes of expedition, claims 3-4 have been canceled without prejudice or disclaimer. Claims 1 and 7 have been amended in several particulars for purposes of clarity and brevity that are unrelated to patentability and prior art rejections in accordance with current Office policy, to place all claims in condition for allowance.

Claims 1 and 7 have been objected to because of informalities as listed on page 2 of the Office Action (Paper No. 020904). In response thereto, claims 1 and 7 have been amended to overcome such an objection.

Claims 1 and 2 have been rejected under 35 U.S.C. §112, 2d ¶, as being indefinite. Specifically, the Examiner asserts that claims 1 and 2 are replete with grammatical and idiomatic errors, and appear to contain both method and apparatus in the claims. Actually, claims 1 and 2 are directed to a measuring system and there is no method step defined therein. Nevertheless, for purposes of expedition, claims 1 and 2 have been revised to address the Examiner's concern in order to overcome the rejection.

Claims 3 and 4 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Miyazawa et al., U.S. Patent No. 6,189,461 for reasons stated on pages 3-4 of the Office Action (Paper No. 020904). Likewise, claims 3 and 4 have also been rejected under 35 U.S.C. §103(a) as being unpatentable over Sakairi, JP 11-304769 for reasons stated on pages 4-5 of the Office Action (Paper No. 020904). Again, for purposes of expedition, claims 3-4 have been canceled without prejudice or disclaimer in favor of allowance of claims 1-2 and 5-7.

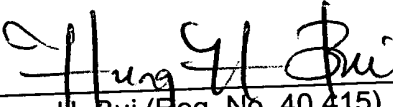
Lastly, claims 5-7 have been rejected under the judicially created doctrine of obviousness type of double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,686,593 for reasons stated on page 6 of the Office Action (Paper No. 020904). While Applicants believe that claims 5-7 are distinguishable over claim 1 of U.S. Patent No. 6,686,593, a terminal disclaimer is submitted to overcome the rejection and to place all claims in condition for allowance.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at the Washington DC area office at (703) 312-6600.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage of fees due in connection with the filing of this paper, including extension of time fees, to the Deposit Account of Antonelli, Terry, Stout & Kraus, No. 01-2135 (Application No. 503.39081VX1), and please credit any excess fees to said deposit account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

By 
Hung H. Bui (Reg. No. 40,415)
Attorney for Applicant(s)

HHB:btd

1300 North Seventeenth Street, Suite 1800
Arlington, Virginia 22209
Tel.: (703) 312-6600
Fax: (703) 312-6666